

B) Remarks

Claim 14 is amended to indicate that the claimed method involves the β crystal form of the methanesulfonic acid salt of the subject compound. Applicants submit that this amendment is supported by the specification, particularly at page 17.


New claims 17-20 are supported by the specification, particularly Figure 1/3, the disclosure at the paragraph bridging pages 2 and 3, and the first two paragraphs on page 5.

Enclosed with this paper is an Information Disclosure Statement. The publications being submitted disclose that imatinib mesylate was utilized in certain published experiments. However, the Board of Appeals decision in this file (Appeal No. 2003-0919) clearly indicates that its decision assumes that the methane sulfonic acid addition salt of imatinib was described in the prior art within the meaning of 102(b). Because the presently submitted publications disclose only what the Board of Appeals assumed was in the prior art, Applicants assert that the principles of *res judicata* require that the claims be allowed over the newly submitted publications.

Entry of this amendment and allowance of the claims is requested.

Respectfully submitted,

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